

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
ADMINISTRATIVE ADJUDICATION DIVISION

RE: FRATTARELLI, LOUIS, JR.

AAD No. 07-033/F&WA

LOBSTER TRAP ALLOCATION MPURP 000710

**FINAL ORDER OF DISMISSAL**

This matter came before Hearing Officer Mary F. McMahon on September 11, 2007 for conference to determine whether Applicant would proceed with his hearing request or if he had waived his right to a hearing. Attorney Gary Powers appeared on behalf of the Division of Fish and Wildlife (Division). Applicant Louis Frattarelli, Jr. failed to appear or otherwise inform the Hearing Officer of his inability to appear at the conference. Applicant had previously stated to the AAD Clerk that he would be withdrawing his request for hearing but no withdrawal has been filed at the AAD. The Order Scheduling Conference, entered on August 15, 2007, provided that if Applicant failed to appear at the conference then a Final Order of Dismissal would be entered.

**FINDINGS OF FACT:**

A review of the AAD file reveals the following:

1. The Order and Notice of Administrative Hearing & Prehearing Conference issued to the parties on March 30, 2007 scheduled the matter for prehearing conference and hearing on April 25, 2007.
2. On April 24, 2007 Applicant Louis Frattarelli, Jr., advised the AAD Clerk that he would be withdrawing his request for hearing and that the hearing scheduled for April 25, 2007 should be cancelled.

3. On May 17, 2007 Applicant Louis Frattarelli, Jr. advised the AAD Clerk that he would send in a withdrawal of his hearing request.
4. A withdrawal of hearing request has not been filed at the AAD.
5. The Order Scheduling Conference, entered on August 15, 2007, scheduled a conference on September 11, 2007 to determine whether Applicant would proceed with his hearing request or if he had waived his right to an adjudicatory hearing.
6. The Order Scheduling Conference provided the following:  
  
" If Applicant fails to appear then he will be deemed to have waived his right to a hearing and a Final Order of Dismissal will be entered in this matter."
7. Attorney Gary Powers appeared on behalf of the Division of Fish and Wildlife on September 11, 2007.
8. Applicant Louis Frattarelli, Jr. failed to appear at the conference on September 11, 2007.

CONCLUSION OF LAW:

Based upon the above Findings of Fact, I conclude the following as a matter of law:

1. Applicant Louis Frattarelli, Jr. is deemed to have waived his right to an adjudicatory hearing on the Lobster Trap Allocation determined by the Division of Fish and Wildlife.

Wherefore, it is hereby

**ORDERED**

1. Applicant' s request for hearing on the Lobster Trap Allocation is herewith DISMISSED.

Entered as an Administrative Order this 19<sup>th</sup> day of September, 2007 and herewith recommended to the Director for issuance as a Final Agency Order.



Mary F. McMahon  
Hearing Officer  
Department of Environmental Management  
Administrative Adjudication Division  
235 Promenade Street, Third Floor  
Providence, RI 02908  
(401) 222-1357

Entered as a Final Agency Order this 19<sup>th</sup> day of September, 2007.



W. Michael Sullivan, Ph.D., Director  
Department of Environmental Management  
235 Promenade Street, 4<sup>th</sup> Floor  
Providence, Rhode Island 02908

**CERTIFICATION**

I hereby certify that I caused a true copy of the within Final Order of Dismissal to be forwarded, via regular mail, postage prepaid to: Louis Frattarelli, 527 Laurel Hill Avenue, Cranston, RI 02920; via interoffice mail to Gary Powers, Esquire, DEM Office of Legal Services, 235 Promenade Street, Providence, RI 02908 on this 30<sup>th</sup> day of September, 2007.



**NOTICE OF APPELLATE RIGHTS**

This Final Order constitutes a final order of the Department of Environmental Management pursuant to RI general Laws § 42-35-12. Pursuant to R.I. Gen. Laws § 42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.